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Rules, Regulations, Orders

TITLE 18—CONSERVATION OF POWER

CHAPTER I—FEDERAL POWER COMMISSION

[Order No. 71]

PREScribing FORM OF ANNUAL REPORT FOR CLASS D MUNICIPAL ELECTRIC UTILITIES AND LICENSEES, AND FIXING DATE FOR FILING SAME

DECEMBER 9, 1939.

The Federal Power Commission, acting pursuant to authority granted by the Federal Power Act, particularly Sections 309 and 311 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act,

§ 210.9 *Form of annual report for Class D municipal electric utilities and licensees.* (a) Hereby adopts for use of Class D municipal electric utilities and licensees (as defined in the Uniform System of Accounts heretofore adopted by the Commission) the accompanying form¹ of Annual Report designated on FPC Form No. 97-M and comprising four pages consisting of the following: Authorization, Condensed Balance Sheet, Verification, Electric Utility Plant, Long-term Debt, Investment of Municipality, Earned Surplus, Condensed Income Statement, Electric Sales Data for the Year, Electric Operating Expenses, Contributions and Services During the Year, Generating Station Statistics, Electric Energy Account, and Transmission and Distribution Statistics;

(b) Hereby orders that each Class D municipal corporation engaged in the generation, transmission or distribution of electricity throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, shall file with the Commission annually for each fiscal year beginning January 1, 1939, or next thereafter (if the established fiscal year is other than a calendar year) three executed copies of such Annual Report on

¹ Filed as a part of the original document.

the form aforesaid; such reports to be filed on or before the last day of the third month following the close of the calendar or other established fiscal year;

(c) Hereby further orders that so much of Commission Order No. 56² adopted September 7, 1938, as is applicable to Class D municipal electric utilities and licensees be and the same is hereby rescinded.

By the Commission.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-3798; Filed, September 10, 1940; 9:21 a. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINISTRATION

PART 180—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE ACT OF 1910

REGULATIONS REGARDING HEARINGS REVOKED

Pursuant to the authority conferred upon the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce by section 3 of the Insecticide Act of 1910 (Act of April 26, 1910, 36 Stat. 331, as amended by the Act of March 4, 1913, 37 Stat. 736; 7 U.S.C. 127), § 180.4, Chapter I, Title 21, Code of Federal Regulations [regulation 4 of the regulations for the enforcement of the Insecticide Act of 1910 (Third Revision), S.R.A., I.F. No. 11, is hereby revoked.

Done at Washington, D. C., this 10th day of September 1940.

[SEAL]

HERBERT E. GASTON,
Acting Secretary of the Treasury.

PAUL H. APPLEBY,
Acting Secretary of Agriculture.

ROBERT H. HINKLEY,
Acting Secretary of Commerce.

[F. R. Doc. 40-3803; Filed, September 10, 1940; 11:19 a. m.]

² 3 F.R. 2255.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 18—CONSERVATION OF POWER:

Federal Power Commission: Page
Class D municipal electric utilities and licensees, annual report form..... 3627

TITLE 21—FOOD AND DRUGS:

Food and Drug Administration:
Insecticide Act of 1910, hearing regulation revoked.... 3627

TITLE 37—PATENTS AND COPYRIGHTS:

Copyright Office:
Registration of claims to copyright, amendment.... 3628

TITLE 50—WILDLIFE:

Fish and Wildlife Service:
Alaska fisheries, herring fishing regulations amended.. 3628

NOTICES

Department of Labor:

Wage and Hour Division:
Hosiery industry, learner employment certificates extended 3629
Puerto Rico, Special Industry Committee, resignation from and appointment to..... 3629

Department of the Interior:

Bituminous Coal Division:
Hardwick Coal and Coke Co., applications for exemption withdrawn (2 documents) 3629

Bureau of Reclamation:

Arkansas Valley Investigations, Webster Park Reservoir Site, first form reclamation withdrawal 3629

(Continued on next page)



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CONTENTS—Continued

Federal Power Commission:	Page
Wight, John, et al., hearing-----	3629
Federal Trade Commission:	
General Baking Corp., et al., order appointing trial ex- aminer, etc-----	3630
Complaints and notices of hear- ings:	
Bounds, George A., and Co-----	3631
Powers, Lawrence W-----	3630
Securities and Exchange Commis- sion:	
Fonda, Johnson & Gloversville Railroad Co., application granted-----	3632
International Utilities Corp., et al., declaration filed-----	3632

TITLE 37—PATENTS AND COPYRIGHTS

CHAPTER II—COPYRIGHT OFFICE

PART 201—REGISTRATION OF CLAIMS TO COPYRIGHT

AMENDMENT

Section 201.12 (Rule 33 of the Rules and Regulations for the Registration of Claims to Copyright, Copyright Office Bulletin No. 15, edition of 1927) is hereby amended as follows:

By inserting after the line reading "K. Print or pictorial illustration." a line reading "KK. Commercial print or label."

C. L. BOUVÉ,
Register of Copyrights.

Approved:

ARCHIBALD MACLEISH,
The Librarian of Congress.

SEPTEMBER 7, 1940.

[F. R. Doc. 40-3795; Filed, September 10, 1940;
9:20 a. m.]

TITLE 50—WILDLIFE

CHAPTER I—FISH AND WILDLIFE SERVICE

SUBCHAPTER Q—ALASKA FISHERIES¹

PART 220—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

Herring Fishery

Section 220.3 is hereby amended to read as follows:

§ 220.3 *Closed seasons, commercial herring fishing; exceptions.* Commercial fishing for herring, except for bait purposes, is prohibited from January 1 to May 31, both dates inclusive, and from October 16 to December 31, both dates inclusive; *Provided*, That this prohibition shall not apply to the use of gill nets of mesh not less than 2½ inches stretched measure between knots, in the period from October 16 to December 31, both dates inclusive.*

A new section to be known as § 220.3a is hereby inserted following § 220.3, to read as follows:

§ 220.3a *Maximum take of herring; exceptions.* In the open season from June 1 to October 15, both dates inclusive, there shall not be taken in the southeastern Alaska area a total of more than 30,000 barrels of herring, upon the basis of 250 pounds per barrel: *Provided*, That this limitation shall not prohibit the taking of herring for bait purposes: *And provided further*, That in the waters along the west coast of Baranof Island, including the coasts of adjacent small islands, from Point Kakul to Cape Ommaney, and along the southeast coast of Baranof Island from Cape Ommaney to the light at Port Armstrong, the catch of herring during any calendar week of the fishing season, or portion of a calendar week at the beginning or end of such season, shall not exceed the catch from all other waters.*

A new section to be known as § 220.4 is hereby inserted following § 220.3a, to read as follows:

§ 220.4 *Waters of Chatham Strait in which commercial herring fishing is prohibited or restricted.* All commercial fishing for herring, except for bait purposes, is prohibited, as follows: All waters of Chatham Strait and contiguous waters along the western shore of Admiralty Island between Point Gardner and a point at 57 degrees 40 minutes north latitude: *Provided*, That this prohibition shall not apply to commercial fishing for

¹Prior to the consolidation of the Bureau of Fisheries and the Bureau of Biological Survey of June 30, 1940, the codified Alaska fisheries regulations were designated as Chapter II—Bureau of Fisheries, Subchapter A—Alaska Fisheries.

*All sections included in this document are issued under the authority contained in sec. 1, 44 Stat. 752; 48 U.S.C. 221.

herring by means of gill nets of mesh not less than 2½ inches stretched measure between knots in the period from June 1 to December 31, both dates inclusive. The taking of herring for bait, except by salmon trolling boats, by means of any gill net of mesh not more than 2½ inches stretched measure between knots, of not greater than No. 20 gill net thread, and not exceeding 10 fathoms in length and 100 meshes in depth, is prohibited in all waters of Kootznahoo Inlet east of a line extending from Danger Point to Kootznahoo Head.*

Section 220.6 is hereby amended to read as follows:

§ 220.6 *Waters of Union Bay in which commercial herring fishing with purse seines is prohibited.* All commercial fishing for herring, including bait fishing, by means of any purse seine is prohibited in the waters on the west side of Cleveland Peninsula between 55 degrees 46 minutes north latitude and 55 degrees 44 minutes north latitude, and east of 132 degrees 17 minutes 30 seconds west longitude.*

Section 220.8 is hereby amended to read as follows:

§ 220.8 *Traps prohibited, commercial herring fishing.* Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.*

Section 220.10 is hereby amended to read as follows:

§ 220.10 *Size of purse seines, commercial herring fishing.* Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,250 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited: *Provided*, That any purse seine may have in addition a strip along the bottom not to exceed 30 meshes in depth and of mesh not less than 4 inches stretched measure between knots. No extension to any seine in the way of leads will be permitted.*

Sections 220.13 and 220.14 are hereby amended to read as follows:

§ 220.13 *Commercial herring fishing with beach seines prohibited on all herring spawning grounds.* Commercial fishing for herring, including bait fishing, by means of any beach seine on any herring spawning ground is prohibited.*

§ 220.14 *Size of purse seines, commercial herring fishing in Klawak Harbor.* Seines used in commercial fishing, including bait fishing, for herring in Klawak Harbor within a true east and west line passing through the northern extremity of Klawak Island shall not exceed 90 fathoms hung measure in length nor 500 meshes in depth. For the purpose of determining depths of such seines measurements will be upon the basis of 1½ inches stretched measure between

knots. No such seine shall have a mesh of less than 1½ inches stretched measure between knots.*

A. J. WIRTZ,
Acting Secretary of the Interior.
Aug. 27, 1940.

[F. R. Doc. 40-3796; Filed, September 10, 1940;
9:20 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 26-FD]

IN THE MATTER OF THE APPLICATION OF
HARWICK COAL AND COKE COMPANY FOR
EXEMPTION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the Applicant, the Director consents to withdrawal of the above-entitled application for exemption upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application for exemption, except upon a showing of a material change of facts, and to that effect:

It is so ordered.

Dated September 6, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-3793; Filed, September 9, 1940;
2:51 p. m.]

[Docket No. 824-FD]

IN THE MATTER OF THE APPLICATION OF
HARWICK COAL AND COKE COMPANY FOR
EXEMPTION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the Applicant, the Director consents to withdrawal of the above-entitled application for exemption upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application for exemption, except upon a showing of a material change of facts, and to that effect:

It is so ordered.

Dated September 6, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-3794; Filed, September 9,
1940; 2:51 p. m.]

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL

WEBSTER PARK RESERVOIR SITE, ARKANSAS
VALLEY INVESTIGATIONS

JULY 15, 1940.

THE SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands be withdrawn from public entry under the first form of withdrawal as provided in Section 3, Act of June 17, 1902 (32 Stat. 388).

The following described lands are included in a patented stock-raising homestead entry under the provisions of the Act of December 29, 1916 (43 Stat. 301), and withdrawal under the Reclamation Act is recommended in order to prohibit mineral location under the general mining laws, except as provided by the Act of April 23, 1932 (42 Stat. 136).

WEBSTER PARK RESERVOIR SITE, COLORADO,
SIXTH PRINCIPAL MERIDIAN,
T. 18 S., R. 71 W., Sec. 32, W½NE¼, NW¼,
and SE¼; Sec. 33, N½SW¼.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur: August 7, 1940.

FRED W. JOHNSON,
Commissioner of the General Land
Office.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

A. J. WIRTZ,

Under Secretary of the Interior.

SEPTEMBER 4, 1940.

[F. R. Doc. 40-3797; Filed, September 10, 1940;
9:21 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 62]

ACCEPTANCE OF RESIGNATION FROM AND
APPOINTMENT TO THE SPECIAL INDUSTRY
COMMITTEE FOR PUERTO RICO

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938 as amended, I, Philip B. Fleming, Administrator of the Wage and Hour Division, Department of Labor,

Do hereby accept the resignation of Mr. Herbert O. Bergdahl from the Special Industry Committee for Puerto Rico and do appoint in his stead as representative for the employers on such Committee, Mr. Frank M. Mayfield, of St. Louis, Missouri.

Signed at Washington, D. C., this 9th day of September 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-3806; Filed, September 10, 1940;
11:47 a. m.]

NOTICE OF EXTENSION OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Whereas special certificates for the employment of learners in the hosiery industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 have been issued to employers, said special certificates having been issued pursuant to section 14 of the Fair Labor Standards Act of 1938 and Regulations, Part 522, as amended, Title 29, Chapter V, Code of Federal Regulations, issued by the Administrator thereunder, and all said special certificates provide that they shall be valid until September 18, 1940, unless cancelled or modified for cause by the Administrator or his authorized representative, and

Whereas it is necessary in order to prevent curtailment of opportunities for employment that the said special certificates be continued in full force and effect after the date of expiration thereof.

Now, therefore, it is ordered that said special certificates for the employment of learners in the hosiery industry at wage rates less than the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 be continued in full force and effect until the date of November 17, 1940, and shall be valid until that date unless cancelled or modified for cause by the Administrator or his authorized representative.

Signed at Washington, D. C., this 9th day of September 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-3807; Filed, September 10,
1940; 11:47 a. m.]

FEDERAL POWER COMMISSION.

[Projects Nos. 1457 and 1461]

IN THE MATTER OF JOHN WIGHT AND THE
MCLAREN GOLD MINES COMPANY

ORDER FIXING DATE OF HEARING

SEPTEMBER 7, 1940.

Commissioners: Leland Olds, Chairman, Basil Manly, John W. Scott and Clyde L. Seavey. Claude L. Draper not participating.

It appearing to the Commission that:

(a) On September 22, 1937, John Wight of Billings, Montana, filed an application for preliminary permit for proposed Project No. 1457, to be located on Clark's Fork of the Yellowstone River, in Park County, Montana, affecting lands of the United States within the Absaroka National Forest, and to consist of a diversion dam about 14 feet high and 80 feet long, a diversion flume or pipe line approximately 1,700 feet long, and a power house with installed capacity of 500 horsepower;

(b) On September 29, 1937, The McLaren Gold Mines Company of Cooke, Montana, filed an application for preliminary permit for proposed Project No. 1461, to be located on the same site as proposed Project No. 1457, and to consist of a log crib storage dam 18 feet high and about 100 feet long, a constructed log crib diversion dam across Clark's Fork, a penstock, a power house with installed capacity of 500 horsepower, and a transmission line approximately 9.3 miles long;

(c) The proposed projects are located at the site of an abandoned power project formerly authorized by a final power permit issued by the Secretary of Agriculture to the now defunct Western Smelting and Power Company of Seattle, Washington, on May 23, 1912, and subsequently revoked on December 9, 1932;

(d) Several interested parties claiming ownership of the abandoned power project and the mining properties in connection therewith have protested formally and informally against issuance of a preliminary permit to either of the aforesaid applicants; and

(e) A public hearing held at Missoula, Montana, would offer full opportunity for all interested parties to be heard; and

The Commission orders that:

A public hearing on the aforesaid applications for preliminary permits be held on September 23, 1940, at 10 o'clock a. m. in the auditorium on the second floor of the Federal Building, Missoula, Montana.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-3799; Filed, September 10, 1940;
10:26 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4139]

IN THE MATTER OF GENERAL BAKING CORPORATION, A CORPORATION; INTERSTATE BAKERIES CORPORATION, A CORPORATION; OMAR, INC., A CORPORATION; QUAKER BAKING COMPANY, A CORPORATION; P. F. PETERSON BAKING COMPANY, A CORPORATION; CONTINENTAL BAKING COMPANY, A CORPORATION; MOSE ADLER, AN INDIVIDUAL TRADING AS ADLER BAKERY; CHARLES W. ORTMAN, CHARLES G. ORTMAN, AND LAWRENCE F. ORTMAN, INDIVIDUALLY AND AS COPARTNERS TRADING AND DOING BUSINESS AS ORTMAN BAKERY; GENERAL DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA, AN UNINCORPORATED ASSOCIATION, ITS OFFICERS AND MEMBERS; WALTER KARL STULTZ, INDIVIDUALLY AND AS PRESIDENT AND A MEMBER OF RESPONDENT GENERAL DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA; LOUIS MILLER, INDIVIDUALLY AND AS VICE-PRESIDENT AND A MEMBER OF RESPONDENT, GENERAL

DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA; ALFRED RUSSELL, INDIVIDUALLY AND AS RECORDING SECRETARY AND A MEMBER OF RESPONDENT GENERAL DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA; THOMAS V. SMITH, INDIVIDUALLY AND AS SECRETARY AND A MEMBER OF RESPONDENT GENERAL DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA; AND MALCOLM G. LOVE, ALSON JEFFRIES, AND GLENN KARCH, INDIVIDUALLY AND AS TRUSTEES AND MEMBERS OF RESPONDENT GENERAL DRIVERS UNION, LOCAL No. 554 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS OF OMAHA

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of September, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Miles J. Furnas, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, September 19, 1940, at ten o'clock in the forenoon of that day (central standard time), in the Pompadour Room, Hotel Fontenelle, Omaha, Nebraska.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3800; Filed, September 10, 1940;
11:10 a. m.]

[Docket No. 4299]

IN THE MATTER OF LAWRENCE W. POWERS, AN INDIVIDUAL TRADING AS L. W. POWERS COMPANY

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Section 13),

hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Lawrence W. Powers, is an individual trading as L. W. Powers Company, with his principal office and place of business located at 1328 Broadway, New York, New York. Respondent is engaged in the business of a commission resident buyer of women's ready-to-wear apparel, and as such, respondent acts as buying agent for, and in behalf of, a number of retail dealers in transactions of purchase and sale of such merchandise.

The manner of operation of respondent's business is that of receiving from various retail dealers for whom he acts as agent, requests, orders, or requisitions to purchase such merchandise upon specifications as to quantity, size, color, kind of cloth, type of garment and price. When such an order is received by respondent, he contacts various manufacturers of such merchandise and places the order with the source of supply offering the specified requirements on terms and conditions most favorable from the standpoint of the purchaser. Generally the merchandise so purchased is shipped by the manufacturer directly to the purchaser. On the orders so placed by respondent, he receives from the sellers of such merchandise a brokerage fee or commission, usually 5 per cent of the purchase price paid by the purchaser.

PAR. 2. New York City is the center of the women's ready-to-wear apparel industry in the United States, and the retail dealers in such merchandise located in states of the United States other than the State of New York undergo expense in purchasing such merchandise in the New York market. Many of such retail dealers maintain buying offices in New York City, the operating and overhead expenses of which are borne by such retail dealers. Retail dealers purchasing through commission buyers are generally competitively engaged with retail dealers who purchase through buyers who are compensated by the retail dealers employing them and with retail dealers who bear the expense incident to the maintenance of New York buying offices.

PAR. 3. In the course and conduct of his business since June 19, 1936, respondent has placed orders for such merchandise with manufacturers thereof located in the State of New York on behalf of retail dealers located in other states of the United States, pursuant to which orders, such merchandise has been shipped and transported by the sellers thereof from the State of New York across state lines to the respective retail dealer purchasers.

PAR. 4. In the course of the purchasing transactions in interstate commerce as set forth herein, respondent, since June 19, 1936, while acting as purchasing agent for and in behalf of the purchasers of such merchandise in the manner hereinabove described, has received and ac-

cepted from the sellers thereof brokerage fees or commissions in substantial amounts.

PAR. 5. The foregoing acts and practices are in violation of subsection (c) of section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 4th day of September, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Lawrence W. Powers, an individual trading as L. W. Powers Company, respondent herein, that the 11th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the city of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure,

to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 4th day of September, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3801; Filed, September 10, 1940; 11:11 a. m.]

[Docket No. 4303]

IN THE MATTER OF GEORGE C. BOUNDS AND WILLIAM H. PHILLIPS, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF GEORGE A. BOUNDS AND COMPANY

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents, George C. Bounds and William H. Phillips, partners doing business under the name and style of George A. Bounds and Company, have their principal office and place of business located at Salisbury, Maryland. Respondents own, and for the purpose of packing, processing and canning tomatoes and sweet potatoes, operate a factory located at Hebron, Maryland.

PAR. 2. Respondents since June 19, 1936, have been and are now engaged in the business of selling, shipping and distributing such commodities, by means and through the use of brokers, directly to purchasers of the same for resale. The customary brokerage granted and allowed by respondents to brokers on such sales has been and usually is 4 percent from invoice price, said invoice price being respondents' prevailing market price.

PAR. 3. Respondents are now and have been since June 19, 1936, selling, shipping and distributing such commodities in commerce between and among the various states of the United States and the

District of Columbia, and as a result of such sales have caused such commodities to be shipped and transported from the State of Maryland to the purchasers thereof located in the various states of the United States other than the State of Maryland. There is now and has been at all times mentioned herein a continuous current of trade in commerce in such commodities between respondents and the purchasers of such commodities.

PAR. 4. In the course and conduct of their business in commerce as hereinbefore alleged and described,

(1) Respondents have granted to purchasers, the sales to whom have been effected by brokers not accepting brokerage from respondents on such sales, discounts and allowances in lieu of brokerage, by selling and invoicing said commodities to such purchasers at a net price which is lower than respondents' prevailing market price by an amount which approximately equals the customary brokerage usually granted and allowed by respondents and accepted by respondents' brokers on similar sales to purchasers.

(2) Respondents have granted to purchasers, the sales to whom have been effected by brokers controlled by such purchasers, discounts and allowances in lieu of or as brokerage, by selling said commodities to such purchasers at a net price which is lower than respondents' prevailing market price by an amount which equals the customary brokerage usually granted and allowed by respondents to such brokers on similar sales to other purchasers effected by such brokers.

(3) Respondents have granted to brokers, the sales to whom have been for such brokers' own account, discounts and allowances in lieu of or as brokerage, by selling said commodities to such brokers at a net price which is lower than respondents' prevailing market price by an amount which is equal to the customary brokerage usually granted and allowed by respondents to such brokers on similar sales to other purchasers when effected by such brokers.

PAR. 5. The aforesaid acts of the respondents constitute a violation of the provisions of subsection (c) of Section 2 of the above-mentioned Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13).

Wherefore, the premises considered, the Federal Trade Commission on this 5th day of September, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, George C. Bounds and William H. Phillips, partners, doing business under the name and style of George A. Bounds and Company, respondents herein, that the 11th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade

Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such

answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed at Washington, D. C., this 5th day of September, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3802; Filed, September 10, 1940; 11:11 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-152]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION, HERMISTON LIGHT AND POWER COMPANY, RALPH ELSMAN, TRUSTEE UNDER TRUST AGREEMENT DATED JULY 12, 1939

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of September, A. D. 1940.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party or parties; and

Notice is further given that any interested person may, not later than September 19, 1940, at 4:30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is

on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The declarants jointly request approval of the sale of all of the assets (except cash) of Hermiston Light and Power Company to Pacific Power and Light Company for a consideration of approximately \$161,632.24, and the subsequent liquidation and dissolution of Hermiston Light and Power Company. The declarants have designated Section 12 (d) of the Act and Rule U-12D-1 as applicable to the proposed transaction.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3804; Filed, September 10, 1940; 11:25 a. m.]

[File No. 1-2055]

IN THE MATTER OF FONDA, JOHNSTOWN & GLOVERSVILLE RAILROAD COMPANY 4½% FIRST CONSOLIDATED GENERAL REFUNDING MORTGAGE, DUE 1952

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of September, A. D. 1940.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 4½% First Consolidated General Refunding Mortgage, due 1952, of Fonda, Johnstown & Gloversville Railroad Company; and

After appropriate notice,¹ a hearing having been held in this matter; and The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on September 17, 1940.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3805; Filed, September 10, 1940; 11:28 a. m.]

¹ 5 F. R. 2162.